

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 30 OF 2007

SHRI. CHANDRAKANT S. PORIENKAR AND
ANR

... Appellants

Versus

SMT. YASMIN IRSHAD MAKANDAAR AND
ANR

... Respondents

Mr. S. D. Lotlikar, Senior Advocate with Mr. Prasheen Lotlikar, Advocate for the appellants.

Mr. R. G. Ramani, Advocate for the respondents.

Coram:- R. S. MOHITE, J.

Date:- 6th July, 2007

P.C.

This is an appeal challenging an order granting temporary injunction, passed by the Civil Judge, Senior Division, Bicholim. The said order has been passed on 3.1.2007 in Special Civil Suit No.45/2006/A.

2. I have perused the order and the record. It appears that the plot on which the present appellants are effecting construction, originally stood in the name of one Govind Vithu Gaonkar. The said Govind expired in the year 1971. The present respondents claim to have purchased the said plot from the family members of the said Govind. I have perused the sale deed. From the same, it is evident that the vendors from whom the present respondents have purchased the said plot are shown as children of the deceased Govind, his wife, daughters-in-law and other members.

3. The case of the present appellants is that they are co-owners in

respect of the property and there was a partition which was effected in Regular Civil Suit No.87/97/C. The trial Court has dealt with this aspect of the matter and has observed that on behalf of some of the family members of Govind, the signature on the sale deed is made through a power of attorney holder. It is further observed that the said power of attorney has not been produced for the inspection of the Court.

4. Admittedly, the name of none of the present appellants has been shown in the record of rights. In my view, the matter will require evidence. If the temporary injunction is vacated at this stage, then the plaintiffs are likely to be non-suited. In this view of the matter, I am not inclined to interfere with the matter. The same is disposed of. Hearing of the suit is expedited.

R. S. MOHITE, J.

ssm.